

IN THE CRIMINAL COURT OF TENNESSEE AT MEMPHIS
THE THIRTIETH JUDICIAL DISTRICT

STATE OF TENNESSEE,)
)
vs.)
DELCHON WEATHERSPOON,)
Defendant.)

COPY

Case No. P 43279

PETITION FOR WRIT OF CERTIORARI/BOND HEARING

MARCH 22, 2017

THE HONORABLE GLENN WRIGHT, PRESIDING JUDGE

APPEARANCES

FOR THE STATE:

MEGHAN FOWLER
Assistant District Attorney General
District Attorney General's Office
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Memphis, TN 38103

FOR THE DEFENDANT:

JOSHUA STANTON
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Public Defender's Office
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Reported by:
Katherine Knowles
Court Reporter

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1 IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE

2 DIVISION 2

3
4 STATE OF TENNESSEE,)

5)

6 vs.) Case No. P 43279

7 DELCHON WEATHERSPOON,)

8 Defendant.)

9
10 This cause came to be heard and was heard on the
11 22nd day of March, 2017, before the Honorable Glenn Wright,
12 Judge, holding the Criminal Court for Shelby County, at
13 Memphis, Tennessee, and the following proceedings were had
14 to-wit:

15
16 THE COURT: All right. This is the matter of
17 Delchon Weatherspoon. This is your motion?

18 MR. STANTON: It is, Your Honor.

19 THE COURT: All right. You may proceed.

20 MR. STANTON: Your Honor, at this time the only
21 evidence that the petitioner and defendant would like to
22 introduce first is a uniform affidavit of indigency signed by
23 the defendant but have previously shown that to the prosecutor.
24 If I could have that marked and admitted into evidence.

25 MS. FOWLER: Judge, the State will stipulate that

1 he is indigent if he had the public defender on this and that
2 he can afford to pay a bond of no more than \$500.

3 THE COURT: Let's mark it Exhibit 1 to this
4 hearing.

5 (Exhibit No. 1 was marked and filed.)

6 THE COURT: All right.

7 MR. STANTON: And second, Your Honor, petitioner
8 would like to introduce a record of the General Sessions Court
9 file. We were unable to obtain a certified copy of this and
10 went to the court clerk's office and they explained that
11 because it's somewhat in limbo between General Sessions Court
12 and Criminal Court that they cannot provide a certified copy
13 but they did retrieve it from the grand jury section and made a
14 copy of it and so I wanted to submit for the record the
15 documents that were in the General Sessions Court file.

16 THE COURT: State?

17 MS. FOWLER: And, Judge, I don't have a problem
18 entering that but I want to point out to the Court that that's
19 not the full file. The initial affidavit of complaint was
20 amended to increase the charges to criminal attempt murder in
21 the first degree. It documents much of the investigation and
22 so if we're entering the General Sessions file, then the State
23 wants to make sure that the amended affidavit of complaint is
24 included.

25 MR. STANTON: Defense has no opposition then.

1 THE COURT: Let's show that Exhibit 2 then.

2 MS. FOWLER: Judge, as the Court reviews the --

3 THE COURT: Hold on just a second.

4 MS. FOWLER: Yes, sir.

5 THE COURT: All right. Go ahead.

6 MS. FOWLER: Judge, I just wanted to point out as
7 the Court is reviewing the documents that Mr. Stanton is asking
8 the Court to be made an exhibit to this hearing, that the exact
9 same motion was filed and heard in General Sessions Court by
10 the judge that heard the proof in this matter and rejected.

11 MR. STANTON: And, Your Honor --

12 THE COURT: Let's mark this Exhibit 2.

13 (Exhibit No. 2 was marked and filed.)

14 THE COURT: How do you respond to that?

15 MR. STANTON: Well of course the defendant has a
16 right to review in the Criminal Court to review the bond that's
17 been set. The General Sessions Court's judgment is not the
18 final say under the bail reform act. He has a right to appeal.
19 In fact that's specifically noted in the petition for writ of
20 certiorari that the petition is presented under Tennessee Code
21 Annotated section 40-11-144(b), which again provides a method
22 for appeal of General Sessions Courts bond judgment.

23 THE COURT: You may proceed.

24 MR. STANTON: Thank you, Your Honor. And last for
25 the purposes of the record, I would like the Shelby County

1 pretrial services investigation report marked and entered into
2 evidence.

3 THE COURT: All right. Mark the pretrial report
4 Exhibit 3.

5 MR. STANTON: I believe the Court already has a
6 copy but I can provide this to the Court if -- yes, Your Honor,
7 in the jacket. Thank you, Your Honor.

8 (Exhibit No. 3 was marked and filed.)

9 THE COURT: All right. You may proceed.

10 MR. STANTON: Defense has no further proof at this
11 time.

12 MS. FOWLER: Judge, the State has proof. The State
13 will call Sergeant Cordero. As Sergeant Cordero is coming in,
14 I wanted to inform the Court that the victim is present for
15 this and also she has a vested interest in the bond hearing and
16 she did not want the bond reduced at all.

17 MR. STANTON: At this time, Your Honor, I would ask
18 for the Rule to be invoked.

19 THE COURT: Okay.

20 MS. FOWLER: I'm not going to call her unless the
21 Court wants me to.

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1 Q And why did Mr. Weatherspoon do this?

2 A In his statement he said that he wanted her to feel the
3 pain he was feeling in his heart.

4 Q And prior to stabbing -- chasing Ms. Kelly out of her
5 own home and stabbing her repeatedly, what did
6 Mr. Weatherspoon do in the hours that led up to the attack on
7 Ms. Kelly in her own home?

8 A They were in the home together. She was there with her
9 child's father and they were celebrating New Years. And at
10 some point he went up to his room --

11 MR. STANTON: Objection, Your Honor. It doesn't
12 appear that the witness is testifying from his own personal
13 knowledge.

14 MS. FOWLER: Judge, reliable hearsay is permissible
15 in bond hearings and this is all about his investigation.

16 THE COURT: Objection overruled.

17 Q I'm sorry, Sergeant?

18 A He went upstairs. They were downstairs. And while he
19 was upstairs, he appeared -- I can't say how he felt but he was
20 posting on Facebook.

21 THE COURT: This is what he told you, right?

22 THE WITNESS: No, sir. This is what was in his
23 statement. I didn't take his statement. I reviewed his
24 statement. Part of it is what he told me and what Ms. Kelly
25 told me when I took her statement.

1 THE COURT: Go ahead.

2 MR. STANTON: Objection, Your Honor. At this time
3 with respect to the contents of the statement, if he was not
4 even present, there's no foundation that the evidence he's
5 testifying to is actually from --

6 THE COURT: Who took the statement from the
7 defendant?

8 THE WITNESS: Felony Response investigators took
9 the statement.

10 MS. FOWLER: Judge, reliable hearsay is permissible
11 in bond hearings. If that's the case, then I'm going to have
12 to get the Felony Response officer down here. I brought the
13 case officer down here who reviewed the statement for the
14 purposes of his investigation and to further his investigation.

15 THE COURT: Is the case officer available who took
16 the statement?

17 MS. FOWLER: This is the case officer.

18 THE COURT: I mean the one who took the statement.

19 MS. FOWLER: Judge, I'll have to find out. He is a
20 Felony Response officer. I thought that in the interest of
21 efficiency, given that reliable hearsay is permissible in bond
22 hearings that --

23 THE COURT: Do you think we have to have that
24 statement?

25 MS. FOWLER: I think that given that Mr. Stanton is

1 asking for an ROR bond in this Class A felony that the
2 defendant admitted to, that he admitted to stabbing her 13
3 times and what Sergeant Cordero is going to say is that he was
4 weapon seeking prior to the attack, I think that it's necessary
5 for the Court to hear this and the severity of it in addition
6 to the strength of --

7 THE COURT: I've heard the severity from him
8 already okay.

9 MS. FOWLER: Yes, Judge. I just want the State's
10 case and the premeditation, the strength of the State's case
11 given that this is a bond hearing and that's a factor to be
12 considered, that the Court is aware that the premeditation is
13 very clear in this case, in addition to chasing her down the
14 street and stabbing her, was actually weapon seeking prior to
15 the attack. That's the extent I'm going to ask him if he met
16 with Ms. Kelly and viewed her injuries and that's the extent.

17 THE COURT: Okay. Go ahead and ask him that.

18 BY MS. FOWLER:

19 Q And prior to the attack, did Mr. Weatherspoon advise he
20 was seeking weapons in order to kill Ms. Kelly and her child's
21 father?

22 A Yes.

23 MR. STANTON: I'd object again on the basis of
24 knowledge, Your Honor.

25 THE COURT: Overruled.

1 MS. FOWLER: And again, Judge, reliable hearsay is
2 permissible.

3 Q Now were you aware of the status of the relationship
4 between Mr. Weatherspoon and Ms. Kelly at the time of the
5 attack?

6 A They were boyfriend/girlfriend.

7 Q Had they broken up?

8 A It was on again, off again.

9 MR. STANTON: Again, I'd object, Your Honor. The
10 basis of knowledge has not been established.

11 MS. FOWLER: Judge, that's fine. I'll withdraw
12 that question.

13 Q Did you also meet with Ms. Kelly during the course of
14 your investigation?

15 A Yes, ma'am.

16 Q And when you got to Ms. Kelly, where was she?

17 A She was in Regional One medical hospital.

18 Q And did you -- during the course of your investigation,
19 did you view any of Ms. Kelly's injuries?

20 A Yes, I did.

21 Q If I may, did you photograph them?

22 A Yes, I did.

23 MS. FOWLER: And if I may, I'll show these to the
24 defense and pass them to the witness.

25 Q Sergeant Cordero, are you familiar with those photos?

1 A Yes, ma'am.

2 Q Can you tell the Court what those photos are?

3 A It's photographs of Victoria Kelly.

4 Q And is Victoria Kelly the victim in this matter?

5 A Yes, ma'am.

6 Q And she's the one that Delchon Weatherspoon stabbed at
7 least 10 to 13 times?

8 A Yes, ma'am.

9 Q Do those pictures document some of the injuries that Ms.
10 Kelly sustained as a result of the attack that
11 Mr. Weatherspoon induced on Ms. Kelly?

12 A Yes, ma'am.

13 Q And can you -- are those a true and accurate depiction
14 of what Ms. Kelly looked like when you met with her in the
15 hospital in the days after the attack?

16 A Yes, ma'am.

17 Q Can you tell the Court what those pictures are?

18 A The first picture she's wearing a head bandage. She has
19 blood on the side of her face. And she says -- beneath the
20 bandage she's sustained a cut to her throat.

21 Q And as a result of the cut to her throat, does she have
22 permanent paralysis in the left side of her face?

23 A I don't know if it's permanent but she had paralysis the
24 day I spoke to her.

25 MR. STANTON: Objection.

1 THE COURT: Hold on, there's an objection. What's
2 the objection?

3 MR. STANTON: Well, Your Honor, I think he would be
4 testifying to a medical conclusion.

5 THE COURT: I'm going to sustain that objection.

6 MS. FOWLER: Well, Judge, I want to point out that
7 it's in the affidavit of complaint that Mr. Stanton asked to be
8 entered into evidence as part of his proof.

9 THE COURT: Okay. Well it's in evidence already
10 then.

11 MS. FOWLER: Thank you, Judge.

12 BY MS. FOWLER:

13 Q It does document her injuries?

14 A Yes, ma'am.

15 Q You weren't able to document all of her injuries due to
16 the extensive nature of them, were you?

17 A She had injuries that were bandaged that I didn't ask
18 her to remove her bandage or her clothing to see injuries, but
19 she had injuries to her stomach area that I didn't observe.

20 Q Did she have injuries to her throat?

21 A Yes.

22 Q And did you also in those pictures does that document
23 injuries to her hands?

24 A Yes.

25 Q And were those defensive wounds?

1 A Based upon my experience --

2 MR. STANTON: Objection, Your Honor.

3 THE COURT: What's your objection?

4 MR. STANTON: Well the witness hadn't been
5 qualified to answer questions as to the nature of wounds and
6 how they are received.

7 MS. FOWLER: I'll qualify him, Judge. He's been an
8 MPD officer for --

9 THE COURT: I don't think we need to go into that.
10 It's just a bond hearing, okay.

11 MS. FOWLER: Yes, Judge. Judge, I'd ask these be
12 made an exhibit to the hearing, please.

13 THE COURT: Okay. Photographs of victim collective
14 Exhibit 4.

15 (Exhibit No. 4 was marked and filed.)

16 THE COURT: Any further questions?

17 MS. FOWLER: No, sir.

18 THE COURT: Cross-examination?

19 MR. STANTON: Yes, Your Honor. Before
20 cross-examination begins, we would move for the Court to
21 require the testifying witness to turn over or the State to
22 turn over any prior statements relating to this case from the
23 testifying witness.

24 Although obviously Tennessee Rule of Criminal Procedure
25 26.2 may not apply in this hearing as it's pending indictment,

1 Your Honor, under Tennessee Code Annotated 40-17-120, the
2 Tennessee Code actually requires after a witness called by the
3 State or the defendant in a criminal case not a trial but in a
4 criminal case it says specifically has testified on direct
5 examination, the Court shall a motion order the State or
6 defense to produce any statement of a witness in the State's or
7 the defense's possession which relates to the subject matter as
8 to the witness that's testifying.

9 Your Honor, I was not previously aware that Mr. Cordero
10 was testifying so I did not have an opportunity to ask for any
11 prior statements prior to his testimony.

12 THE COURT: What has he testified to that's
13 surprised you?

14 MR. STANTON: I'm not suggesting that there's a
15 surprise, Your Honor. It's simply that --

16 THE COURT: Everything he testified to is already
17 in the documents you introduced.

18 MR. STANTON: Yes, Your Honor. I'm not suggesting
19 it's a surprise but again --

20 THE COURT: I'm going to deny that request, okay.
21 You may proceed if you have some questions.

22 MR. STANTON: All right. Thank you, Your Honor.
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CROSS-EXAMINATION

BY MR. STANTON:

Q Good morning, Officer Cordero.

A Good morning, sir.

Q So you met with Ms. Kelly on January 1st?

A No, sir.

Q What day did you meet with Ms. Kelly?

A I think it was January 5th.

Q So that was four days after the event occurred?

A Yes, sir.

Q And when she -- when you met with her, what were the circumstances of that meeting?

A She was still in the hospital recovering from her injuries. I called and spoke with her mother who said that she thought she was well enough to speak so I went to the hospital, located her, and documented her injuries and asked if she was well enough to give me a statement and she did.

Q And at that time was she under the influence of any medication?

A She was taking medication, but I asked her if she felt clear headed and could give me a truthful statement and she said that she did feel well enough to give a statement.

MR. STANTON: Your Honor, may I have a moment?

THE COURT: Sure.

MR. STANTON: I have no further questions.

1 THE COURT: Thank you, sir. You may step down.
2 Any further proof?

3 MS. FOWLER: I do have one more witness, Judge, but
4 I will just tell the Court what that witness would testify to.
5 An investigator in my office on the day of the prelim did take
6 pictures to document all of Ms. Kelly's injuries. There are
7 upwards of 20 stab wounds documented in these photos. I don't
8 know if the Court wants to get into it.

9 Again, the purpose of this, Judge, is simply to show the
10 severity of the attack and --

11 THE COURT: That's already been shown.

12 MS. FOWLER: -- the risk to the community. Yes,
13 Judge. Then in that case I don't have any further proof.

14 THE COURT: Okay. Defense, do you have any proof?

15 MR. STANTON: No rebuttal, Your Honor.

16 THE COURT: Statements?

17 MR. STANTON: Your Honor, if I could address the
18 argument in the petition, I think it would be fair to divide
19 the argument into two sections, first to address the relevant
20 sections in the bail reform act as it applies to
21 Mr. Weatherspoon and then subsequently to move on to discussing
22 the constitutional argument in the petition.

23 With respect to the bail reform act, Your Honor, the
24 pretrial services investigation reflects that the defendant
25 certainly has been in Shelby County for at least the last six

1 years working, employed here. He does have family ties here,
2 both his mother and aunt are in Shelby County.

3 Your Honor, as far as the military service that was
4 referenced in the petition, of course as the Court is certainly
5 aware, getting records for that kind of thing can take some
6 time. Have not been able to secure that for the purposes of
7 this hearing and although I am proceeding to do that. But the
8 defendant has made certainly a good faith representation to me
9 that that is the case.

10 Moving on to the defendant's prior criminal record,
11 including prior releases on recognizance or bail, he has no
12 record, Your Honor. This is the very first charge that he has
13 received.

14 And moving on to the nature of the offense and apparent
15 probability of conviction and likely sentence, well, Your
16 Honor, certainly the severity of the injuries I would
17 understand to the Court are certainly problematic, but I would
18 note to the Court that there is a defense, a potential defense
19 at least certainly for a lesser included, the possibility of
20 criminal attempt voluntary manslaughter or aggravated assault
21 given the circumstances of this as an intimate partner
22 relationship. And Your Honor, the likelihood of adequate
23 provocation under those circumstances is increased.

24 Last, Your Honor, as far as other factors relating to
25 his ties to the community, he is a high school graduate. And

1 so I do think that the factors under the bail reform act
2 actually do suggest the recognizance release is appropriate.
3 And certainly the bail reform act in subsection 115 suggests
4 that the Court should consider recognizance release first. And
5 only after the Court has considered that recognizance release
6 is inappropriate directed I believe it's under section 117
7 should the Court consider reasonable bail conditions.

8 And last in subsection 118 should the Court look to what
9 is an appropriate bond to be set. And of course under section
10 118 it does give the Court opportunity to set an unsecured bond
11 instead of a secured bond if the Court sees appropriate.

12 And with respect to subsection 118 as far as the
13 defendant's financial condition and circumstances, the State
14 has stipulated that the maximum bond that the defendant
15 petitioner can afford is \$500. I do think that that's highly
16 relevant in this case and I'll address that more in the
17 constitutional argument.

18 But with respect to the danger to the community, and I
19 do expect that the State's argument will largely be about the
20 danger to the community if Mr. Weatherspoon is released. Under
21 subsection 118 of the bail reform act specifically notes that
22 the danger to the community should be considered with respect
23 to the defendant's prior record, does not direct the Court to
24 consider danger to the community with respect to the current
25 charge.

1 Mr. Weatherspoon is of course constitutionally presumed
2 innocent in this matter and as a result would argue that it's
3 inappropriate for the Court to consider danger to the community
4 with respect to simply charges for which he is presumed
5 innocent.

6 Next, Your Honor, to move on to the constitutional
7 argument, there is a fundamental problem with the bail as it's
8 currently set. It's set at \$200,000 for Mr. Weatherspoon. And
9 the fundamental problem is this. He is in jail solely because
10 he is impoverished. A wealthy man in his position would be
11 free, would be out of custody pending trial.

12 And so to the extent that the Court and the General
13 Sessions Court judge had set a bond which Mr. Weatherspoon is
14 completely unable to afford or meet, then he is discriminated
15 against or his liberty is taken away solely because of his
16 economic status. And, Your Honor, a line of cases going back
17 decades shows this to be constitutionally impermissible.

18 Going back to Gideon v. Wainright, obviously the Supreme
19 Court held that an indigent defendant can't be discriminated
20 against in terms of not having counsel.

21 And I think two of the most relevant cases are Williams
22 v. Illinois and Bearden V. Georgia. In Williams v. Illinois
23 the Supreme Court held again that a person's liberty actually
24 cannot be taken away solely because of economic status.

25 And Williams is outlined in the petition. The defendant

1 in that case had his liberty taken away because he was unable
2 to pay a fine.

3 The Illinois criminal code at the time provided that a
4 person who could not pay their fine could instead be held in
5 jail longer to work off the fine. The Supreme Court said
6 that's illegal, it's impermissible.

7 In Bearden v. Georgia the Supreme Court held that a
8 defendant cannot have their probation violated solely because
9 they cannot pay a fine as long as they're making good faith
10 efforts to pay that fine.

11 So the Supreme Court has held again in additional cases
12 noted in the petition on multiple occasions that an indigent
13 defendant cannot be discriminated against on the basis of their
14 economic status.

15 As a result, I think the appropriate way to read the
16 bail reform act so that it does not run afoul of these
17 constitutional mandates from the United States Supreme Court is
18 to read the provisions related to the defendant's economic
19 status as requiring the Court essentially to set reasonable
20 bail conditions in light of the defendant's economic status and
21 then to set a money bail that either the defendant can afford
22 the secured money bail or an unsecured bond because again, it
23 is fundamentally unfair, a violation of Mr. Weatherspoon's
24 equal protection rights to deprive him of his liberty solely
25 because he is poor.

1 THE COURT: State.

2 MS. FOWLER: Judge, I'll do this in reverse. I'll
3 address the constitutional argument first. He is not being
4 deprived of his liberty solely because he's poor. He's being
5 deprived of his liberty because a judge in General Sessions
6 Court found by a preponderance of the evidence that and found
7 probable cause that Mr. Weatherspoon stabbed Victoria Kelly
8 upwards of 20 times and was trying to kill her. He caused her
9 serious bodily injury. She has paralysis to the left side of
10 her face. She has injuries documented in the photos that she
11 has cut marks on her neck.

12 He committed -- by probable cause he committed a
13 criminal attempt murder in the first degree and this woman will
14 be permanently disfigured. And so he's not -- his liberty is
15 not being -- he's not being confined because he's poor. He's
16 being confined because he committed a crime, and I think that
17 should be clear.

18 I also think it should be clear that the two cases that
19 Mr. Stanton is relying on, these are cases that involve
20 punishment after conviction that were fine-only crimes. That's
21 not the case here. The punishment in this case is 15 years to
22 25 years at 85 percent. The likelihood of conviction in this
23 case is extremely high.

24 Mr. Weatherspoon gave a full statement of admission that
25 lays out not only his premeditation, in that he was weapon

1 seeking prior to the event, but then he broke into her room, he
2 chased her down the street, and he stabbed her 20 times. And
3 there were witnesses to this crime.

4 Ms. Kelly picked him out in General Sessions Court and
5 the likelihood of conviction in this case is very high.
6 Therefore, Judge, and given the severity of the case, the
7 State's position is that the bail is set too low. We're not
8 going to ask the Court to raise it but that's the State's
9 position.

10 This man armed himself with a knife because he was mad
11 and he stabbed this woman 20 times. He chased her down the
12 street. He chased her out of her own home because he was mad,
13 because he wanted her to feel the pain he felt.

14 As to the release into the community, the safety of the
15 community. Judge, he doesn't have any prior record but how do
16 we know when he's going to attack someone again and stab them
17 20 times because he's mad? And we only have his criminal
18 history in Tennessee. We don't know what his criminal history
19 in the military is.

20 And simply based on the proof and the likelihood of
21 conviction at trial given his statement of admission and
22 Ms. Kelly's identification in addition to the witnesses, the
23 State believes the likelihood of conviction is very high. The
24 constitutional implications he has a bail. He can make it.
25 But she is afraid of him. She believes that this bail is not

1 set high enough.

2 And the only way that she can feel safe is if he remains
3 in custody. And a General Sessions judge that heard the proof
4 rejected both of these arguments that Mr. Stanton made, and
5 this is forum shopping at its basis. And that's the State's
6 argument and that's what we're relying on.

7 THE COURT: Do you have anything further?

8 MR. STANTON: Just to respond briefly to a couple
9 of the State's arguments. First with respect to the forum
10 shopping argument. I don't think it's forum shopping to appeal
11 a lower court decision.

12 Second, again, the State's focus on the danger of the
13 community. I'd again note that the bail reform act
14 specifically directs the Court to look at the defendant's prior
15 record and not to assume that the defendant is dangerous solely
16 because of the nature of the allegations for which he is
17 constitutionally presumed innocent.

18 And last to address the State's focus on Bearden and
19 Williams as cases that were about punishment and not about
20 liberty. Again, I think that that misses the import of those
21 cases, which is that in Bearden it stated clearly which is in
22 the petition that discrimination against a poor person in a
23 criminal case is illegal.

24 And I think that there are some -- there have been some
25 cases to look at this and actually extended those rulings to

1 the kind of argument that I'm making today, Your Honor. So
2 there's a line of cases in district courts, mostly declaratory
3 judgments, preliminary injunctions, temporary restraining
4 orders, holding that setting a bond without proper
5 consideration of a defendant's financial ability to pay is
6 simply unconstitutional.

7 The Fifth Circuit looked at this in Pugh v. Rainwater
8 which is again cited in the petition. Well that was a two-step
9 case, Your Honor. It's the only circuit that's actually had an
10 opportunity to look at this issue and the initial panel,
11 three-judge panel that considered it held essentially that
12 there's a mandate of strict scrutiny by any court looking at a
13 bond being set that deprives somebody of their liberty based on
14 their economic status.

15 That was later vacated on other grounds, but I would
16 note that that is the only court of appeal to actually consider
17 this and I do think it's persuasive guidance to the Court in
18 terms of how it should be analyzing the problem.

19 Again, Mr. Weatherspoon is in custody not because he has
20 been -- simply because he has been accused with a crime but
21 because he is too poor to pay the bond that the Court set in
22 General Sessions.

23 For that reason I would ask the Court to set a
24 reasonable bond that he can afford, release him on his own
25 recognizance or to set an unsecured bond. Thank you,

1 Your Honor.

2 THE COURT: Okay. I have considered the factors
3 outlined in TCA 40-11-118 which include the defendant's length
4 of residency in this community. I've considered his employment
5 status, family ties, his lack of prior criminal record.

6 I've considered the nature of the offense and the
7 apparent probability of the conviction and the likely sentence.
8 The nature of the offense is a very violent offense. The
9 apparently probability of conviction apparently is great and if
10 he is convicted of murder first -- criminal attempt murder
11 first, he's looking at serving 15 to 60 years in the State
12 Penitentiary, a very significant sentence.

13 In light of the serious nature of this offense, the
14 injuries to the victim, I think the bond that's set is
15 appropriate \$200,000. He's not being incarcerated because he's
16 poor. He's being incarcerated because the community has to be
17 protected from any potential violence such as this.

18 So your motion to reduce the bond is denied.

19 MS. FOWLER: Thank you, Judge.

20 THE COURT: All right. Step out, sir.

21

22 (END OF PROCEEDINGS HEARD IN THIS CAUSE ON

23 WEDNESDAY, MARCH 22, 2017.)

24

25

CERTIFICATE

STATE OF TENNESSEE)

)

COUNTY OF SHELBY)

I, the undersigned, **Katherine Knowles**, Court Reporter for the Thirtieth Judicial District of the State of Tennessee, do hereby certify that the foregoing to be true, accurate and complete transcript to the best of my knowledge, understanding and ability of all the evidence that was heard in this cause in Division 2 of the Criminal Court for Shelby County, Tennessee, before the Honorable Glenn Wright, Presiding Judge, on the 22nd day of March, 2017.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

Dated this 27th day of March, 2017.

COPY

Katherine Knowles
Court Reporter, LCR #126